

REMARKS

At the time the current Office Action was mailed, the Examiner rejected claims 1-5, 7, 10-15, 18-21, and 23-28. In view of the following remarks, Applicant respectfully requests reconsideration of all pending claims.

Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1, 5, 10, 11, 15, 18, 21, and 23-28 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Admitted Prior Art (hereinafter "AAPA") in view of "The Windows NT Command Shell" by Tim Hill (hereinafter "Hill")(1998), in view of Buxton (U.S. Patent No. 6,182,279, hereinafter "Buxton"), and further in view of Halva (U.S. Patent No. 6,681,265, hereinafter "Halva"); and claims 2-4, 7, 12-14, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Hill, in view of Halva as applied and further in view of Buxton. Applicant respectfully traverses this rejection.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). However, it is not enough to show that all the elements exist in the prior art since a claimed invention composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR International Co. v. Teleflex Inc.*, 82 U.S.P.Q.2d 1385, 1396. (2007). It is important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. *Id.* Specifically, there must be some articulated reasoning with a rational underpinning to support a conclusion of obviousness; a conclusory statement will not suffice. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Indeed, the factual inquiry determining whether to combine

references must be thorough and searching, and it must be based on *objective evidence of record*. *In re Lee*, 61 U.S.P.Q.2d 1430, 1436 (Fed. Cir. 2002).

One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988). The Federal Circuit has warned that the examiner must not “fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.” *In re Dembiczak*, F.3d 994, 999, 50 U.S.P.Q.2d 52 (Fed. Cir. 1999) (quoting *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)).

Deficiencies of the Rejection of Claims 1, 5, 10, 11, 15, 18, 21, and 23-28

Independent claim 1 recites, *inter alia*, “storing the command line utility output in a system registry database at a location identified by the identifier.” Similarly, independent claim 15 recites, *inter alia*, “instructions for causing the computer to ... store the command line utility output in a system registry database at a location identified by the identifier.” Finally, independent claim 21 recites, *inter alia*, “a system registry database having a location identified by the identifier, the location identified by the identifier to store an output of the command line utility.”

Applicant maintains that independent claims 1, 15, and 21 are allowable over the cited references for the reasons previously discussed. Additionally, Applicant refers the Examiner to the additional arguments provided below with regard to dependent claims 26-28 and the combination of references.

As previously discussed, in the rejection, the Examiner cited AAPA as disclosing storing “command line utility output ... at a location” and retrieving “the command line utility output ... at the location identified by the identifier.” However, the Examiner admitted that AAPA does not disclose a “system registry database.” Instead, the Examiner cited Halva as disclosing storing and retrieving to and from a “system registry database.” However, Applicant asserts that the Examiner has not met the burden of showing a *prima facie* case of obviousness of claims 1, 15, and 21. Instead, the Examiner has simply separated elements of the above-recited claim features so as to find references that the Examiner believes disclose such elements. Applicant reminds the Examiner that when determining differences between prior art and the claimed invention, “*the claimed invention as a whole must be considered*” (Emphasis added). Further, although the Examiner asserts that “[i]t is a mere use of common sense by one skilled in the art to select and combine such known elements with no new function, i.e., a predictable result,” Applicants direct the Examiner below regarding the combination of elements from the cited references. As discussed below, Applicants assert that the cited references are not properly combinable to support a conclusion of obviousness with regard to the pending claims. As such, Applicant asserts the Examiner has not provided any combination of references that disclose storing “command line utility output in a system registry database at a location identified by the identifier.”

For at least these reasons, the cited combination does not disclose all elements of independent claims 1, 15, and 21. Accordingly, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 1, 5, 10, 11, 15, 18, 21, and 23-25.

Deficiencies of the Rejection of Claims 2-4, 7, 12-14, 19, and 20

The Examiner rejected claims 2-4, 7, 12-14, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over the combination of AAPA, Hill, Halva, and Buxton.

Claims 2-4, 7, and 12-14 are dependent on claim 1 and claims 19 and 20 are dependent on claim 15. As discussed above with regard to the first ground of rejection under 35 U.S.C. § 103(a), the cited references, taken alone or in hypothetical combination, do not disclose all claimed features of claims 1 and 15. Accordingly, the cited combination does not disclose or suggest all of the elements of the claimed invention, and thus, cannot possibly render the claimed subject matter obvious. Thus, Applicant respectfully requests withdrawal of the rejection of under 35 U.S.C. § 103(a) and allowance of claims 2-4, 7, 12-14, 19, and 20.

Deficiencies of the Rejection of Dependent Claims 26, 27, and 28

Although Applicant believes that dependent claims 26, 27, and 28 are allowable based on their dependency on claims 1, 15, and 21, respectively, Applicant asserts that claims 26, 27, and 28 recite additional features allowable over the cited reference. For example, claim 26 recites “without creating a temporary file,” claim 27 recites “without use of a temporary file,” and claim 28 recites “without using a temporary file.”

First, Applicant notes that the term “temporary file” should be given its “broadest reasonable interpretation consistent with the specification” and “the interpretation that those skilled in the art would reach.” *See* M.P.E.P. § 2111. Accordingly, Applicant notes that the “temporary file” is temporary for purposes of storing the output of a command line utility and using that output by an executing application. *See* Application, page 1, lines 16-27. Thus, the term “temporary” refers to the use of the file with regard to the use in the described prior art technique, not necessarily in the temporal aspect of the file.

In rejecting claims 26, 27, and 28, the Examiner stated:

Here, note that nowhere does Hill suggest that the DIR.txt must be temporary. Further, with respect to the Hlvana reference, while Hlvana describes using temporary variables, Hlvana contemplates the use of both temporary and non-temporary variables as evidenced by, e.g. Claim 2 of Hlvana, where information is stored in an “environment

variable” as opposed to the “temporary environment variables” of claim 4 in Hlvana.

Final Office Action mailed April 26, 2010, page 10.

As noted above, the use the “dir.txt” file describes the prior art technique distinguished in the background of the present application. Indeed, the present application specifically mentions “dir” as one of the “illustrative command line utilities.” Application, page 1, lines 11-12. The “dir.txt” file referred to in Hill is necessary for the storage and use of the results of the “dir” command. Thus, to the extent that the results of the “dir” command are to be stored and used by an executing application, the “dir.txt” is a temporary file necessary for such use. The Examiner also noted that Hlava “contemplates the use of temporary and non-temporary variables.” Final Office Action mailed April 26, 2010, page 10. As argued elsewhere in this response, Applicant asserts that Hlava is deficient for other reasons and is not properly combinable with Buxton and Hill. Thus, Applicant respectfully requests withdrawal of the rejection of claims 26-28 under 35 U.S.C. § 103(a).

Deficiencies of the Combination

Additionally, Applicant asserts that combination of Buxton with Hill and Hlava is improper and cannot provide the basis for a *prima facie* rejection under 35 U.S.C. 103(a). In responding to Applicant’s arguments regarding the propriety of the combination, the Examiner stated:

Examiner respectfully disagrees. Applicant’s continued discussion of Buxton’s “OLE libraries” or “system-level services” is unpersuasive with respect to both the limitations of the invention AND the combination of the references, being that applicant admits that these arguments do not apply to the teachings of the limitations, and that these arguments have been address on the record already, the examiner now addresses the bearing of “OLE libraries” on the combination. As the examiner has quoted in the rejection, Hlvana teaches the advantageous nature of allowing command files to use the Windows registry. (Col. 2, Ln 37-46). Insomuch as both Hlvana and Buxton involve

storage of data in the registry the would be obvious to combination to one of ordinary skill in the art at the time of the invention because of the advantages highlighted by Hlvana as well as the particular implementation details of that registry provided by Buxton.

Final Office Action mailed April 26, 2010, pages 17-18.

Applicant respectfully maintains that Buxton teaches away from combination with Hill and Halva. Applicant appreciates that the Examiner is not applying the “OLE libraries” of Buxton directly to any recited claim elements. However, this does not render the teaching away aspects of Buxton as inapplicable to the current combination. While Applicant notes the Examiner’s justification for the combination, Applicant respectfully disagrees with such reasons in light of the teaching away arguments previously set forth. The Examiner stated that the combination is obvious because “both Hlava and Buxton involve storage of data in the registry” and “because of the advantages highlighted by Hlava as well as the particular implementation details of that registry provided by Buxton.” Final Office Action mailed April 26, 2010, page 18. However, as noted by the Examiner, the advantages provided by Hlava are “allowing the command files to use the Windows registry.” *Id.*, pages 17-18. However, this advantage *only* applies to such “command files” and the use thereof, and does not apply or provide any advantage to the system of Buxton. Hlava is directed to use of a “temporary command file” that is not operable with the techniques of Buxton.

Further, in response to the Examiner’s characterization of Buxton, Applicant notes that Hlava itself teaches away from combination with Buxton. As previously noted, the invention of Buxton clearly is directed to the “system-level service,” such as “OLE libraries,” that provide a different technique than that of Hlava. Buxton, col. 8, lines 6-8. Buxton is directed to objects used by applications or programs in the context of object-oriented programming techniques. *See Id.*, col. 2, lines 18-34. Applicant notes that Buxton states that the OLE libraries function through the use of WIN32APIs. *Id.*, col. 8,

lines 8-9. In contrast, Hlava clearly teaches away from accessing the registry through programs and Windows APIs. Hlava states:

To provide access to Registry data, utility functions can be coded as programs rather than command files. These programs can then access the Registry data by using the Windows APIs. However, this method is somewhat inefficient. Programs are more difficult and time consuming to write and maintain than command files. Therefore, this method detracts from developer productivity relative to a method that uses command files to access the Registry data.

Hlava, col. 1, lines 44-53. (Emphasis added.)

Thus, as noted above, Hlava discloses the use of “command files” as an alternative to registry access through programs using Windows APIs, such as in the techniques of Buxton. Even though the “command files” of Hlava are described as using APIs, Hlava provides this as an alternative to the use of programs and the APIs, such as would be used in the object-oriented programming techniques of Buxton. Accordingly, Applicant asserts that Hlava teaches away from combination with Buxton. Thus, Applicant asserts that one of ordinary skill in the art would not seek to combine the techniques of Hlava, directed to “command files” as an alternative to programs and Windows APIs, with the techniques of Buxton, which rely on OLE libraries and Windows APIs accessible by programs.

As previously argued, Applicant also maintains that Buxton teaches away from such a combination with Hill and Halva. Hill is a reference directed to the “Windows NT Command Shell.” Hill, page 1. Hill is directed to usage of the “command shell,” a “command prompt,” i.e., a command line, and various commands executed from the “command shell” by typing these commands into the “command prompt.” *Id.* Similarly, Halva is directed to “command files” that are described therein as “a file containing one or more command line operations.” Halva, col. 4, lines 10-20. Thus, both Hill and Halva are directed to usage of the “command line” and various commands executed from the

command line. In contrast, Buxton discloses “OLE libraries” that are defined as “system-level services which utilize the interfaces defined by the COM specification” that call a “WIN 32 API.” Buxton, col. 8, lines 6-8. Applicant asserts that there is a clear difference between a *service* and a *command executed from the command prompt* as disclosed in Hill, and between a *service* and a *command line operation* as disclosed in Halva. Further, as known to those of ordinary skill in the art and as stated in Buxton, API’s are “application program interfaces” which are also quite different than a utility and a “command line utility.” As they are described in Buxton, neither “application program interfaces” nor “system-level services” are “executable from a command line prompt,” and thus cannot be considered a “command line utility.” Applicant asserts one skilled in the art would not seek to combine Hill and Halva, directed to command line usage, with Buxton, directed to usage of system-level services, e.g., OLE libraries. Again, Applicant asserts that Applicant is not arguing against the Examiner’s reason for citation of Buxton. However, Applicant *is* arguing against *the combination* of Buxton with AAPA, Hill, and Hlava. In view of this, Applicant asserts that Buxton discloses “system level services” that are clearly different than a command line utility executed from the command prompt. System-level services, such as the “OLE libraries,” are not “executable from a command line prompt,” and cannot be considered a “command line utility.” Applicant asserts one skilled in the art would not seek to combine Hill and Halva, directed to command line usage, with Buxton, directed to usage of system-level services, e.g., OLE libraries.

With regard to the combination of Hill and Hlava, the Examiner stated:

Examiner respectfully disagrees, furthermore, that the “variables” in Hlvana and the “file” of Hill cannot be combined. While these items are labeled differently, they both essentially comprise data storage of command output. (Compare Hill Page 11, DIR.txt used to store output, with e.g. FIG. 2 of Hlvana). As such, one of ordinary skill in the art would be motivated to uses these two different data storage types as a basis to combine the inventions, to allow the redirection in Hill to be done to a local storage, that might then be interchanged with the Windows Registry as contemplated by Hlvana. While they are different storage

types, they are both storage, and are functionally related, and therefore the examiner respectfully disagrees with the Applicant's assertion that these elements are not combinable by one of ordinary skill in the art.

Final Office Action mailed April 26, 2010, pages 19-20.

Again, Applicant maintains that Hill does not disclose any variables that are analogous to or combinable with the "environment variables." It appears that the Examiner relied on the "file" of Hill as combinable with the "variables" of Hlava. Applicant respectfully asserts that these items are not analogous in such a manner as to provide reasons for the combination of Hill and Hlava. Applicant asserts that the Examiner's assertion is conclusory and essentially renders Hlava "unsatisfactory for its intended purpose." *See* M.P.E.P. § 2143.01 (V). The environment variables of Hlava are stored in the Windows registry, a type of data store. *See* Hlava, col. 2, lines 37-44. The techniques of Hill are directed to storing the output of command line utilities, such as "dir," in a text file. If the files of Hill were interchangeable with the environment variables of Hlava, there would be no need for the invention described in Hlava to use environment variables. However, because such files are not suitable, Hlava is directed to accessing the registry to allow "full use of the data store as intended" as a "central repository for configuration type information." *Id.*, col. 2, lines 44-46. Substituting the use of a "file" would alter the intended purpose of Hlava and render it unsatisfactory for this purpose of allowing full use of the data store, *e.g.*, registry.

Further, if the Examiner is asserting that the redirection of Hill may be used to redirect command line output to the registry, based on the techniques of Hlava, Applicant asserts that such a conclusion is an impermissible use of hindsight. Such a conclusion is merely a restatement of Applicant's disclosed invention. That is, as previously noted, Applicant's claims are directed to storing the output of a command line utility in a "system registry database." The redirect command in Hill is inoperable for storing output in a "system registry database," but can only store data in a file. As noted above, Hlava provides "command files" for storing data in environment variables stored in a registry,

but Hlava does not provide any evidence that such techniques are operable or suitable for use with a command line utility. Thus, Applicant asserts that the reason for the combination is based on hindsight reconstruction gleaned from Applicant's invention that enables storing of the output of a "command line utility in a "system registry database."

Conclusion

In view of the remarks and amendments set forth above, Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of all pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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/Robert A. Manware/
Robert A. Manware
Reg. No. 48,758
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281)-970-4545